

1 **STATE OF GEORGIA**
2 **COUNTY OF FULTON**
3 **CITY OF SOUTH FULTON**

RES2019-045

4
5
6 **A RESOLUTION AUTHORIZING EXECUTION OF A MEMORANDUM OF**
7 **UNDERSTANDING BETWEEN FULTON COUNTY, GEORGIA AND THE CITY OF**
8 **SOUTH FULTON, GEORGIA FOR THE RECEIPT AND TRANSFER OF TITLE AD**
9 **VALOREM TAX ("TAVT") PROCEEDS; AND FOR OTHER PURPOSES**
10

11 **WHEREAS**, the City of South Fulton ("City") is a municipal corporation duly
12 organized and existing under the laws of the State of Georgia;
13

14 **WHEREAS**, the Mayor and Council ("City Council") is the duly elected governing
15 authority of the City;
16

17 **WHEREAS**, pursuant to O.C.G.A. § 48-5C-1, motor vehicles issued a title in
18 Georgia after March 1, 2013 are subject to a state title fee and a local title fee as
19 alternatives to ad valorem taxes; and

20 **WHEREAS**, the City of South Fulton was incorporated via a referendum
21 authorized by House Bill 514 of the 2016 Georgia General Assembly ("City Charter");
22 and

23 **WHEREAS**, Section 7.16 of the City Charter authorized Fulton County to provide
24 government services and functions within the territorial limits of the City of South Fulton
25 during the transition period that ended on November 30, 2018; and

26 **WHEREAS**, the City and County entered into an Intergovernmental Agreement
27 to perform services within the City of South Fulton during the transition period; and

28 **WHEREAS**, the 2018 Georgia General Assembly enacted House Bill 329 which
29 amends the distribution scheme for TAVT taxes outlined in O.C.G.A. § 45-5C-1 as of
30 July 1, 2019; and

31 **WHEREAS**, Fulton County and the City of South Fulton desire to enter into a
32 Memorandum of Understanding to equally share the TAVT proceeds that have been
33 received from or will be received by Fulton County for the period of January 1, 2019
34 through June 30, 2019; and

WHEREAS, the City finds this Resolution to be in the best interests of the City.

THEREFORE, IT IS NOW RESOLVED BY THE COUNCIL OF THE CITY OF SOUTH FULTON, GEORGIA, as follows:

Section 1.

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby authorizes the City Manager to execute the Memorandum of Understanding between Fulton County, Georgia and the City of South Fulton, in substantially the form attached hereto subject to approval as to form by the City Attorney prior to such execution.

Section 2. It is hereby declared to be the intention of the City Council that: (a) All sections, paragraphs, sentences, clauses and phrases of this Resolution are or were, upon their enactment, believed by the City Council to be fully valid, enforceable and constitutional.

(b) To the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Resolution is severable from every other section, paragraph, sentence, clause or phrase of this Resolution. No section, paragraph, sentence, clause or phrase of this Resolution is mutually dependent upon any other section, paragraph, sentence, clause or phrase of this Resolution.

(c) In the event that any phrase, clause, sentence, paragraph or section of this Resolution shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the City Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Resolution.

Section 3. The city attorney and city clerk are authorized to make non-substantive editing and renumbering revisions to this Resolution for proofing, codification, and supplementation purposes. The final version of all ordinances shall be filed with the city clerk.

Section 4. The effective date of this Resolution shall be the date of adoption, unless provided otherwise by the City Charter or state and/or federal law.

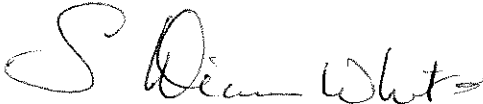
THIS RESOLUTION adopted this 10th day of September 2019.

CITY OF SOUTH FULTON, GEORGIA



WILLIAM "BILL" EDWARDS, MAYOR

ATTEST:

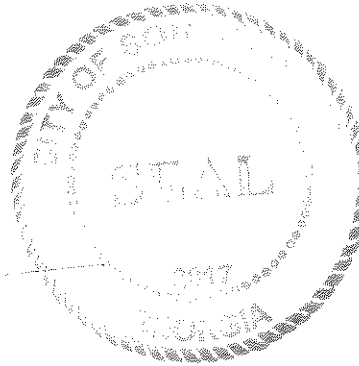


S. DIANE WHITE, CITY CLERK

APPROVED AS TO FORM:



EMILIA C. WALKER, CITY ATTORNEY



116
117 The foregoing RESOLUTION No. 2019-045, adopted on September 10, 2019
118 was offered by Councilmember Willis, who moved its approval. The motion was
119 seconded by Councilmember Gilyard, and being put to a vote, the result was as
120 follows:
121

	AYE	NAY
122		
123		
124 William "Bill" Edwards, Mayor		
125 Mark Baker, Mayor Pro Tem	X	
126 Catherine Foster Rowell	X	
127 Carmalitha Lizandra Gumbs	X	
128 Helen Zenobia Willis	X	
129 Gertrude Naeema Gilyard	X	
130 Rosie Jackson	X	
131 khalid kamau	X	
132		
133		
134		

**STATE OF GEORGIA
COUNTY OF FULTON**

**MEMORANDUM OF UNDERSTANDING BETWEEN FULTON COUNTY
AND THE CITY OF SOUTH FULTON REGARDING TAVT PROCEEDS**

THIS INTERGOVERNMENTAL AGREEMENT ("MOU") is entered into by and between FULTON COUNTY (referred to herein as "County"), and THE CITY OF SOUTH FULTON (referred to herein as "City").

WITNESSETH THAT:

WHEREAS, the City was created by the 2016 Georgia General Assembly pursuant to House Bill 514 ("City Charter"); and

WHEREAS, O.C.G.A. § 48-5C-1 imposes an ad valorem tax on motor vehicles, in lieu of sales tax for each car sold; and

WHEREAS, O.C.G.A. § 48-5C-1(b)(1)(C) provides that the Tax Commissioner shall receive TAVT taxes when it states the following:

. . . the application for title and the state and local title ad valorem tax fees shall be paid to the tag agent in the county where the motor vehicle is to be registered and shall be paid at the time the application for a certificate of title is submitted or, in the case of an electronic title transaction, at the time when the electronic title transaction is finalized. In an electronic title transaction, the state and local title ad valorem tax fees shall be remitted electronically directly to the county tag agent. A dealer of new or used motor vehicles may accept such application for title and state and local title ad valorem tax fees on behalf of the purchaser of a new or used motor vehicle for the purpose of submitting or, in the case of an electronic title application, finalizing such title application and remitting state and local title ad valorem tax fees.

The Tax Commissioner is required each month, under the provisions of O.C.G.A. § 48-5C-1(c), to distribute state and local title ad valorem tax fees, state salvage title ad valorem tax fees, administrative fees, penalties, and interest to the state revenue commissioner, county, municipalities within the county, board of education for the county school district, board of education of any independent school district and the Metropolitan Regional Transportation Authority since a sales and use tax is levied for purposes of a metropolitan area system of public transportation; and

WHEREAS, the County has received TAVT revenue payments for the combined area that was the unincorporated area of Fulton County, a portion of which was incorporated as the City of South Fulton, as of May 1, 2017 and June 2019; and

WHEREAS, the County, through its Department of Finance, agrees with the City and recommends that the amount of TAVT revenue received by the County through June 30, 2019, should be shared with the COSF; and

WHEREAS, the County and City desire to enter into this MOU for the County's transfer and the City's receipt of fifty percent (50%) of the monthly revenue received by the County for the total former unincorporated area now known as City of South Fulton and Fulton Industrial District; and

NOW THEREFORE, for and in consideration of the mutual promises, and subject to the terms and conditions of this MOU, together with other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and County do hereby agree as follows:

1. **Scope.** This MOU shall govern the County's transfer and the City's receipt of TAVT tax proceeds received for the formerly unincorporated areas of Fulton County. The parties agree that the TAVT ordinance does not provide procedures to determine the portion of TAVT tax proceeds received due to commercial fleet vehicles registered in the existing unincorporated area of the County versus the portion of TAVT tax proceeds received due to motor vehicles registered in the residential areas that are now within the territorial area of the City of South Fulton. The parties also agree that as of July 1, 2019, the new distribution formula adopted by the 2018 Georgia General Assembly will provide additional needed direction. Accordingly, the parties agree that a fair and equitable distribution of the tax proceeds received from January 1, 2019 through June 30, 2019 is a fifty-fifty (50/50) share.
2. **Effective Date.** This MOU shall become effective upon its execution by the County and City and shall govern the distribution of TAVT tax proceeds from January 1, 2019 up and through June 30, 2019.
3. **Obligations Specific to the County.**
 - a. The County shall transfer, by wire or other electronic means, fifty percent (50%) of the TAVT tax proceeds designated for the formerly unincorporated areas of Fulton County received by the County for the period of January 1, 2019 through June 30, 2019, within fifteen days of the effective date of this MOU.
4. **Obligations specific to the City.**
 - a. The City shall abide by all rules governing the use and receipt of tax proceeds under the MOU and applicable TAVT law, including any auditing and reporting requirements.

- b. The City shall promptly assist the County at the City's sole cost, with any audit requirement and non-technical report or consolidated schedule of projects as set forth in the MOU.

5. Miscellaneous.

- a. This MOU shall not be changed or modified except by agreement in writing executed by all Parties hereto.
- b. This MOU shall be deemed to have been made and shall be construed and interpreted in accordance with the laws of the State of Georgia.
- c. It is agreed that the illegality or invalidity of any term or clause of this MOU shall not affect the validity of the remainder of the MOU, and the MOU shall remain in full force and effect as if such illegal or invalid term or clause were not contained herein.
- d. The Parties to this MOU shall comply with all applicable local, State, and Federal statutes, rules and regulations regarding the use of TAVT funds.
- e. No consent or waiver, express or implied, by any party to this MOU to any breach of any covenant, condition or duty of another party shall be construed as a consent to or waiver of any future breach of the same.
- f. All notices, consents, waivers, directions, requests or other instruments or communications provided for under this MOU shall be deemed properly given if, and only if, delivered personally or sent by registered or certified United States mail, postage prepaid, as follows:

To Fulton County:

Richard Dick Anderson, County Manager
141 Pryor Street
Atlanta, Georgia 30303

With a copy to:

Patrise Perkins-Hooker, County Attorney
141 Pryor Street, SW, Suite 4038
Atlanta, Georgia 30303

To City of South Fulton:

Odie Donald, City Manager
5440 Fulton Industrial Blvd.
Atlanta, Georgia 30336

With a copy to:

Emilia C. Walker, City Attorney
8024 Fair Oaks Court
Jonesboro, Georgia 30236

- g. Any party may at any time change the address where notices are to be sent or the person to whom such notices should be directed by the delivery or mailing to the above persons a notice stating the change.
- h. This MOU may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, Fulton County and City of South Fulton, the Parties hereunto have set their hands and affixed their seals on the day and year first above written.

FULTON COUNTY, a political subdivision of the State of Georgia

By: _____
Robert L. Pitts, Chairman
Fulton County Board of Commissioners


ATTEST:

By: _____
Jesse Harris, Clerk to the
Commissioner

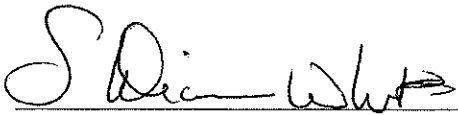
APPROVED AS TO FORM

By: _____
Patrise Perkins-Hooker,
County Attorney for Fulton County


CITY OF SOUTH FULTON, a political subdivision of the State of Georgia

By: 
William "Bill" Edwards, Mayor
City of South Fulton

ATTEST:

By: 
S. Diane White, City Clerk

APPROVED AS TO FORM


By: _____
Emilia Walker,
City Attorney for City of South Fulton

